

DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLESNOTICE OF EMERGENCY RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-904); Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)); and Mayor's Order 03-58, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapters 4 and 5 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The amendments provide for a moratorium on the issuance of special use identification tags ("temporary tags") by used car dealers, allows only District residents to obtain temporary tags from the Director, and limits the total number of dealer tags that may be issued to dealership owners and salespersons.

This emergency rule will expire on August 18, 2004, one hundred and twenty (120) days after its adoption.

The facts that constitute emergency circumstances are as follows:

The Department of Motor Vehicles, pursuant to Chapters 4 and 5 in Title 18, DCMR, issues "special use certificates," commonly referred to as temporary tags, to new and used car dealers. DMV's fee for a temporary tag, valid for 20 days, is \$13. This is intended as a convenience to the buyers of vehicles who need a temporary means of transport to get permanent registration in the District or their home jurisdiction. Two new-car dealers and 242 active used car dealers in the District of Columbia currently have this privilege.

This emergency action is in response to significant health and safety problems stemming from used car dealers' widespread abuse of the temporary-tag issuance process. This abuse has engendered increasing complaints and concerns from the public, law enforcement agencies and Departmental audits. Improperly obtained temporary tags can provide a means for operating unsafe, uninsured, and/or stolen vehicles. Such unlawful tags also enable operators to skirt District residence or other registration requirements (e.g., paying outstanding ticket debt).

Evidence of such abuse is growing, with citizens increasingly reporting cars bearing multiple long-term sets of temporary tags inconsistent with District regulations. Metropolitan Police Department officers routinely confiscate improperly issued and counterfeit temporary tags, which are reported to have a street price of \$150 or more.

The Department's continuing investigation has revealed that used car dealers are not properly using, recording or accounting for temporary tags issued to them. In contrast to the new car dealerships, evidence submitted by the used car dealers themselves shows that a large number, even the majority, of used car dealers may have more of a business selling temporary tags than selling used vehicles:

The number of temporary tags being issued is growing exponentially, rising from 36,327 in (calendar year) 2002, to 79,467 in 2003 and on track to exceed 85,000 this year.

Of the 79,467 temporary tags they issued in 2003, all dealers reported only 12,275 of them going to D.C. residents. DMV's review finds that as many as 10,000 more may have been issued to D.C. residents identified instead as out-of-state buyers in order to avoid easy identification of the driver. At a minimum, proper identification would trigger demand for the payment of any outstanding ticket debts.

Only 2,535 temporary tags issued by used-car dealers were "converted" to permanent tags for D.C. residents.

In more than 476 instances, dealer records showed two different used car dealers issuing two different temporary tags to the same vehicle identification number on the same day.

In more than 1016 instances, dealer records showed a single used car dealer issuing two different temporary tags to the same vehicle identification number on the same day.

In another 1,157 instances, used car dealer records show multiple temporary tags issued to the same vehicle and buyer, which is not allowed.

Despite recent mandatory retraining sessions, when cited or investigated, used car dealers consistently report to DMV that they do not understand or cannot control the proper usage and recording of their temporary-tag inventory.

A total of 139, or 62% percent, of the 242 used car dealers are implicated in the above transactions. As a group, they are responsible for more than 82% of all temporary tags issued by dealers.

Attributing responsibility to individual used car dealers for improper use is increasingly difficult due to the common practice of sharing addresses (more than 34 percent sharing just 10 addresses) as well as rampant errors and omissions in their submitted records.

The Department attempted to disrupt this trend in February 2004, when it issued a rule redesigning the tag and reducing the issuance to one tag instead of two per vehicle, while reducing the duration of the tag from 30 to 20 days. Despite these efforts and the mandatory dealer retraining, the trends in March continued with the number of temporary tags issued by used car dealers up 12% over 2003 and 82% higher than 2002. Moreover, the Metropolitan Police Department already has confiscated stacks of the new tags issued improperly or illegally. Aggressive enforcement efforts will continue to suspend and revoke the registrations of offending dealers.

The Department considers these disturbing activities—and subsequent improper or illegal operation of motor vehicles—a threat to the integrity of government operations and a danger to the public health, safety and welfare. Therefore, during the moratorium, no used car dealer may receive or issue temporary tags.

Used car buyers who are bona fide residents of the District of Columbia may still purchase the tags directly from the Department. A special office for this purpose, at 301 C Street, N.W., Room 1032, will be open Mondays through Saturdays, from 8:15 a.m. to 4 p.m. During the moratorium DMV will verify insurance coverage in every instance prior to issuing temporary tags. No cash transactions will be accepted during this period. All temporary-tag purchaser information will be entered into the Metropolitan Police Department's WALES (Washington Area Law Enforcement System) database.

New-car dealers are still allowed to issue temporary tags because new vehicles do not require inspection in their first two years and therefore are immediately eligible for permanent registration. An illegal temporary tag therefore is much less likely to end up on such a vehicle. Any special identification tags issued by dealers for new vehicles will be distinguishable by color from temporary tags issued by the Department. Because used car sales are integral to most new-car sales, new-car dealers who also sell used cars may continue to issue special-use identification tags for the used vehicles they sell. Although DMV has not uncovered the type of illegal activity associated with dealers exclusively selling used cars, it will require real-time reporting, data capture and insurance verification in conjunction with the issuance of such tags by new-car dealers.

District residents receiving temporary tags will have 20 days to get their vehicle inspected and permanently registered. If the vehicle fails inspection, an additional 20 days will be granted, one time only, to allow for repairs and re-inspection.

The Department is deeply concerned that this moratorium will exacerbate the abuse related to the use of dealer transportation tags. Such tags are used exclusively by dealers to transport vehicles in connection with their business. They too are believed to have been sold and used for illegal purposes. Therefore, these rules restrict the number of such tags a dealer can have in their possession.

Title 18, DCMR, is amended as follows:

- A. Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, Section 426, SPECIAL USE IDENTIFICATION TAGS, is amended by adding new subsections 426.13 and 426.14, to read as follows:

- 426.13 Notwithstanding any other provision of this section, beginning April 26, 2004, only residents of the District of Columbia are eligible to obtain special use identification tags from the Director.
- 426.14 If a vehicle displaying a valid special use identification tag fails motor vehicle safety or emissions inspection, the initial special use identification tag will be removed and a replacement 20-day special use identification tag will be issued.

B. Chapter 5, MOTOR VEHICLE DEALERS, is amended as follows:

- 1) Section 503, DEALER TAGS AND TEMPORARY REGISTRATION CERTIFICATES, is amended by adding new subsections 503.8 through 503.11 to read as follows:

503.8 Dealer tags shall be issued as follows:

- a) Two (2) tags per owner, up to a total of four (4) tags per business; and
- b) One (1) tag per salesperson (other than owner).

503.9 A dealer may replace one (1) lost or stolen tag every six (6) months, upon proof of the filing of a police report or other proof satisfactory to the Director. The Director may waive the time limitation of this subsection for good cause shown.

503.10 A dealer shall have motor vehicle insurance that covers the number of vehicles that can be operated using all the dealer tags in his or her possession issued pursuant to § 503.8.

503.11 Any dealer with tags in excess of the limits established in this section shall surrender those tags to the Department, effective April 26, 2004.

- 2) Section 506, SPECIAL USE IDENTIFICATION TAGS, is amended by adding new subsections §§ 506.13 through 506.17 to read as follows:

506.13 Notwithstanding any other provision of this section, used car dealers will no longer be supplied with special use identification tags.

506.14 Beginning April 26, 2004, no used car dealers may issue special use identification tags.

506.15 New car dealers may continue to be issued special use identification tags and may continue to issue such tags for new and used vehicles sold by them.

506.16 No later than April 30, 2004, all used car dealers shall surrender to the Department all unused special use identification tags in their possession.

506.17 No later than April 26, 2004, all new car dealers shall exchange all special use identification tags in their possession for new vehicle special use identification tags.